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26 February 1969

MEMORANDUM FOR THE RECORD

SUBJECT: Conversation with Chairman David N. Henderson (D., N. C.),
Subcommittee on Manpower and Civil Service, House Post
Office and Civil Service Committee, Regarding Ervin bill
(S. 782)

1. On 21 February 1969, I had a 45-minute conversation with Chairman David N. Henderson during which he began by commenting that:

a. He is very deeply concerned over the damage which passage of the bill in its present form would do to the national security, particularly with regard to CIA, NSA and the FBI.

b. He wants to do everything he can in our behalf. Senator Ervin will not be up again for reelection for six years, and therefore may be less sensitive to political pressures than during the last session. Mr. Henderson therefore plans to talk to the Senator in the near future to see if he does indeed show any more flexibility in the matter than previously.

c. During the last session, Mr. Henderson received private word from Mr. Hoover, Director of the FBI, that, while the bill did not seriously concern the FBI as such, Mr. Hoover felt it did pose security problems for other agencies. Henderson hopes to elicit from Hoover a statement to this effect which he can make public, but is not optimistic in this regard.

d. Mr. Henderson is afraid the bill might move fast in the Senate, particularly in view of information that Senator Ervin plans to dispense with hearings.

e. Mr. Henderson is uncertain as to whether Senator Ervin's "bad will" toward the Agency still persists. He will try to get a reading on this, but meanwhile suggests we approach Senator Ervin

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and tell him that, perhaps due to our own failure to explain our position fully and promptly, we fear our position is not fully understood and we would now like to make sure he appreciates our problem.

2. I told Mr. Henderson that Mr. Houston and I plan to see Senator Ervin on Monday and that we had already forwarded to him a legal memo responding to points raised in a memo prepared for the Senator by the Legal Staff of the Library of Congress. I asked Mr. Henderson whether he thought we should concentrate more on the legalistic points, or on the more practical security and personnel problems which the bill created for us. Mr. Henderson thought the latter would carry more weight. Mr. Henderson further recommended that we cite specific serious security cases which had arisen in the U.S. and other friendly countries as a result of Communist espionage.

3. I showed Mr. Henderson a copy of the legal memo we had sent Senator Ervin and the draft "backup" papers setting forth some of our main points of concern. Mr. Henderson looked at these with interest, but returned them to me suggesting that I not "deliver" them to him until after our meeting with Senator Ervin.

4. In response to my question, Mr. Henderson said he had a high regard for Paul Woodard, Chief Counsel of the Ervin Subcommittee, at least so far as legal competence is concerned. He was not sure where Woodard actually stood regarding the bill, but felt Woodard would be reasonable. Regarding Marcia MacNaughton, of the Ervin Subcommittee staff, Mr. Henderson said she seems fully committed to supporting the bill in its present form and doubts she can be influenced.

5. Mr. Henderson fully supports our idea of formally requesting that the Director be permitted to appear in executive session before the Ervin Subcommittee, and also strongly recommends another personal call on Ervin by the Director after Mr. Houston and I have explored the ground.

6. Mr. Henderson is pessimistic that any other members of the Senate will push Ervin very vigorously for an amendment if he remains adamant. Mr. Henderson questions the feasibility of getting some other member of the Senate to introduce an amendment which Ervin would probably block. It would be preferable, in Mr. Henderson's judgement, for us to try discreetly to convince Senator Ervin that an amendment to meet our needs would have strong support, and that the chances of his bill getting through smoothly would be improved if he himself sponsored such an amendment.

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7. I told Mr. Henderson of our contacts with Kenneth Belieu, in the White House, and with the Civil Service Commission. Mr. Henderson found the attitude of the Civil Service Commission encouraging, but remarked that a strong pitch from the White House would be much more valuable.

8. Mr. Henderson asked me to keep in touch with him and repeated his offer of full support in any manner feasible. I believe he is completely sincere in his expression of concern over the matter.

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JOHN M. MAURY
Legislative Counsel

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SUBJECT: Discussion of S. 782 with Senator Eastland (D., Miss.)

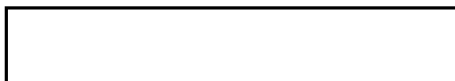
1. I called on Senator Eastland and told him that, as he knew, Senator Ervin has again introduced his bill on constitutional rights of Government employees (S. 782). The Senator immediately interjected and said he is completely for us and shares our concern with the bill. I said I was confident this was his attitude and my main purpose in seeing him was to explain what action we have taken and what we plan. I noted that we have again talked to Senator Ervin about the problems the bill creates for us but with no better results than in the last Congress. I said the Director plans to send a letter to Senator Ervin asking for a hearing in executive session before the Subcommittee but that on the basis of information which I have, it is my understanding that Senator Ervin plans to report the bill to the full Committee with no further hearings. Eastland said if that were the case, perhaps it would be better to wait until the bill comes to the full Committee and then ask for a hearing. I noted that I thought it doubtful that Senator Ervin would grant us a hearing in executive session in any event because of the position he took publicly in the last Congress. Eastland said if this is true, it would be better to send the letter to Ervin as Ervin's refusal to grant us a hearing in executive session would engender considerable resentment within his Subcommittee. Eastland also said that if we are refused a hearing by Ervin, we should privately so advise some of the members of the Subcommittee. He said he did not know to whom we should talk and speculated about Ted Kennedy. He did not know Kennedy's attitude but offered to feel him out for us, if we desired.

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I let this drop without going into it as I did not want to get into our present relationship with Senator Bayh. As a follow-up to our refusal by Ervin, if this should transpire, Eastland said we should then formally request a hearing from him.

2. As I was leaving, Eastland said if we would follow these suggestions, we could win this fight.



Assistant Legislative Counsel

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